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In-re Application of : DECISION ON
Martin T. Lowy :
Application No.: 10/599,411 :
PCT No.: PCT/US2005/010125 :
Int. Filing Date: 22 March 2005 : PETITION UNDER
Priority Date: 22 March 2004 :
Attorney's Docket No.: PB60808 :
For: USE OF AN ... :
BIPOLAR DISORDERS : 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 28 September 2006.

BACKGROUND

On 22 March 2005, this international application was filed, claiming an earliest priority date of 22 March 2004.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 22 September 2006. This international application became abandoned with respect to the United States at midnight on 22 September 2006 for failure to pay the required basic national fee.

On 28 September 2006, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. A review of the file reveals that declaration submitted under PCT Rule 4.17 was properly executed.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **28 September 2006**.



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